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MEMORANDUM

TO: Regional Directors

FROM:  John M. Daniel, Jr. P.E., DEE
Director, Division of Air Program Coordination

SUBJECT: Memo Number 03-005. Guidance on Confidential Information and Responding to FOIA Requests for Air Permitting Records

DATE: August 1, 2003

COPIES: Bob Burnley, Richard F. Weeks, Charles Turner, Air Permit Managers

A revised version of the New Source Review (NSR) Permits Program Manual Appendix MM – Confidential Information Guidance is attached. This revision supercedes the version that appears in the current New Source Review Permits Program Manual, revised April 1, 2002. Please implement this guidance immediately upon receipt of this transmittal.

The revised Appendix MM provides guidance on confidential information in air permitting and responding to FOIA requests for air permitting records. While this guidance is applied to minor NSR permitting, it has been developed with an eye toward compliance with restrictions on confidential information protection under the federal Clean Air Act Title V permitting program. Permit writers should note differences with past minor NSR confidentiality guidance.

This new guidance provides procedures for:

- submitting permit applications and application-related documents and correspondence containing confidential information, including recommended format of showings,
- evaluating permit applications containing information claimed to be confidential information,

- responding to Freedom of Information Act (FOIA) requests involving air permitting records,
- evaluating information requested under FOIA for confidential information, and
- writing practically enforceable permits while protecting confidential information.